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**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2055

MAURO ANTONIO  
7224 Zest Street  
San Diego, CA 92139

**A C C U S A T I O N**

Respiratory Care Practitioner  
License No. 24702

Respondent.

Complainant alleges:

**PARTIES**

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about September 29, 2005, the Respiratory Care Board issued Respiratory Care Practitioner License Number 24702 to MAURO ANTONIO (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein, expired on October 31, 2006, and has not been renewed.

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3. This Accusation is brought before the before the Respiratory Care Board

“The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

“The Respiratory Care Board of California, hereinafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

"The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter."

“The board may order the denial, suspension, or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

"(f) Negligence in his or her practice as a respiratory care practitioner.

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2

1 (commencing with Section 500).

2 “...

3 “(j) The commission of any fraudulent, dishonest, or corrupt act which is  
4 substantially related to the qualifications, functions, or duties of a respiratory care  
5 practitioner.

6 “(k) Falsifying, or making grossly incorrect, grossly inconsistent, or unintelligible  
7 entries in any patient, hospital, or other record.

8 “...

9 “(o) Incompetence in his or her practice as a respiratory care practitioner.

10 “(p) A pattern of substandard care.”

#### 11 COSTS RECOVERY

12 8. Section 3753.1 of the Code states:

13 “(a) An administrative disciplinary decision imposing terms of probation may  
14 include, among other things, a requirement that the licensee-probationer pay the monetary  
15 costs associated with monitoring the probation.

16 “(b) The board shall not renew or reinstate the license of any licensee who has  
17 failed to pay all of the costs ordered under this section once a licensee has served his or  
18 her term of probation.”

19 9. Section 3753.5 of the Code states, in part:

20 “In any order issued in resolution of a disciplinary proceeding before the board,  
21 the board or the administrative law judge may direct any practitioner or applicant found to have  
22 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the  
23 investigation and prosecution of the case. . . .”

24 10. Section 3753.7 of the Code states:

25 “For purpose of this Chapter, costs of prosecution shall include attorney general or  
26 other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service  
27 fees.”

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1 FIRST CAUSE FOR DISCIPLINE

2 (Negligence)

3 11. Respondent is subject to disciplinary action under section 3750,  
4 subdivisions (f) and (g) of the Code, in that Respondent was negligent in his care and treatment  
5 of several patients, as more particularly alleged hereinafter.

6 12. On or about December 29, 2005, four medication bags were found in  
7 Respondent's employee locker. These medication bags were filled with respiratory medication  
8 that had been removed from the Pyxis<sup>1</sup> by Respondent and documented as having been provided  
9 to the patients assigned to him during several shifts in December, 2005. When confronted about  
10 the medicine bags discovered in his locker, Respondent admitted that he did not administer these  
11 medications to his patients as he had charted and charged for. Respondent stated that he did not  
12 like respiratory therapy. The circumstances pertaining to the patients who were under the care of  
13 Respondent are as follows:

14 Patient P.E.

15 A. In or about December, 2005, patient P.E., a 76-year-old male,  
16 was a patient at S.C. Medical Center. Respondent was assigned to patient P.E. on or  
17 about December 15 and 16, 2005.

18 B. On or about December 13, 2005, patient P.E.'s physician placed an  
19 order to hold the administration of Advair<sup>2</sup> and Spiriva<sup>3</sup>. There was no subsequent  
20 order to re-start either medications.

21 C. On or about December 15, 2005, Respondent administered both  
22 Advair and Spiriva to patient P.E. Respondent withdrew from the Pyxis, three  
23 respiratory treatments consisting of Levalbuterol HCL.<sup>4</sup> Respondent administered two of  
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25 1. A medication dispensing system.

26 2. Administered to treat Asthma and Chronic Obstructive Pulmonary Disease (COPD)

27 3. Administered to treat bronchospasm.

28 4. A bronchodilator used to treat asthma and COPD.

1 these treatments to patient P.E. and he charged for three treatments.

2 D. On or about December 16, 2005, Respondent administered both  
3 Advair and Spiriva to patient P.E. Respondent withdrew from the Pyxis, three  
4 respiratory treatments consisting of Albuterol<sup>5</sup> and Ipratropium.<sup>6</sup> Respondent  
5 administered one of these treatments to patient P.E. and he charged for three treatments.

6 Patient B.B.

7 A. In or about December, 2005, patient B.B., a 67-year-old female,  
8 was a patient at S.C. Medical Center. Respondent was assigned to patient B.B. on or  
9 about December 15 and 16, 2005.

10 B. On or about December 15, 2005, Respondent withdrew from the  
11 Pyxis, three respiratory treatments consisting of Albuterol and Ipratropium. Respondent  
12 administered two of these treatments to patient B.B. and he charged for three treatments.

13 C. On or about December 16, 2005, Respondent withdrew from the  
14 Pyxis, three respiratory treatments consisting of Albuterol and Ipratropium. Respondent  
15 administered one of these treatments to patient B.B. and he charged for three treatments.

16 Patient J.A.

17 A. In or about December, 2005, patient J.A., a 47-year-old male,  
18 was a patient at S.C. Medical Center. Respondent was assigned to patient J.A. on or  
19 about December 15 and 16, 2005.

20 B. On or about December 15, 2005, Respondent withdrew from the  
21 Pyxis, three respiratory treatments consisting of Albuterol. Respondent did not document  
22 that he administered any of these treatments to patient J.A. Respondent charged for three  
23 treatments.

24 C. On or about December 16, 2005, Respondent withdrew from the  
25 Pyxis, two respiratory treatments consisting of Albuterol. Respondent did not document  
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27 5. Administered to treat bronchospasm.

28 6. A bronchodilator.

1 that he administered any of these treatments to patient J.A. Respondent charged for two  
2 treatments.

3 Patient A.C.

4 A. In or about December, 2005, patient A.C., a 71-year-old male, was  
5 a patient at S.C. Medical Center. Respondent was assigned to patient A.C. on or about  
6 December 15 and 16, 2005.

7 B. On or about December 15, 2005, Respondent withdrew from the  
8 Pyxis, three respiratory treatments consisting of Albuterol and Ipratropium. Respondent  
9 administered two of these treatments to patient A.C. and he charged for three treatments.

10 C. On or about December 16, 2005, Respondent withdrew from the  
11 Pyxis, three respiratory treatments consisting of Albuterol and Ipratropium. Respondent  
12 administered one of these treatments to patient A.C. and he charged for three treatments.

13 Patient J.Y.

14 A. In or about December, 2005, patient J.Y., a 93-year-old male,  
15 was a patient at S.C. Medical Center. Respondent was assigned to patient J.Y. on or  
16 about December 15 and 16, 2005.

17 B. On or about December 15, 2005, Respondent withdrew from the  
18 Pyxis, three respiratory treatments consisting of Albuterol and Ipratropium. Respondent  
19 did not document that he administered any of these treatments to patient J.Y. Respondent  
20 charged for three treatments.

21 C. On or about December 16, 2005, Respondent withdrew from the  
22 Pyxis, three respiratory treatments consisting of Albuterol and Ipratropium. Respondent  
23 did not document that he administered any of these treatments to patient J.Y. Respondent  
24 charged for three treatments.

25 Patient A.W.

26 A. In or about December, 2005, patient A.W., a 84-year-old female,  
27 was a patient at S.C. Medical Center. Respondent was assigned to patient A.W. on or  
28 about December 15 and 16, 2005.

1 B. On or about December 15, 2005, Respondent withdrew from the  
2 Pyxis, two respiratory treatments consisting of Albuterol and Ipratropium. Respondent  
3 did not document that he administered any of these treatments to patient A.W.

4 Respondent charged for two treatments.

5 C. On or about December 16, 2005, Respondent withdrew from the  
6 Pyxis, two respiratory treatments consisting of Albuterol and Ipratropium. Respondent  
7 did not document that he administered any of these treatments to patient A.W.

8 Respondent charged for two treatments.

9 Patient E.T.

10 A. In or about December, 2005, patient E.T., a 86-year-old male, was  
11 a patient at S.C. Medical Center. Respondent was assigned to patient E.T. on or about  
12 December 16, 2005.

13 B. On or about December 16, 2005, Respondent withdrew from the  
14 Pyxis, three respiratory treatments consisting of Albuterol and Ipratropium. Respondent  
15 administered one of these treatments to patient E.T. and he charged for three treatments.

16 Patient J.J.

17 A. In or about December, 2005, patient J.J., a 76-year-old female,  
18 was a patient at S.C. Medical Center. Respondent was assigned to patient J.J. on or about  
19 December 20, 2005.

20 B. On or about December 20, 2005, Respondent withdrew from the  
21 Pyxis, two respiratory treatments consisting of Albuterol. Respondent did not  
22 document that he administered any of these treatments to patient J.J. Respondent  
23 charged for two treatments.

24 SECOND CAUSE FOR DISCIPLINE

25 (Act or Acts of Dishonesty)

26 13. Respondent is further subjected to disciplinary action under section 3750,  
27 subdivisions (g) and (j) of the Code, in that he committed act or acts of dishonesty which is/are  
28 substantially related to the qualifications, functions, or duties of a respiratory care practitioner, as

1 more particularly alleged hereinafter:

2           14.     Respondent committed an act or acts of dishonesty or corruption which  
3 is/are substantially related to the qualifications, functions, or duties of a respiratory care  
4 practitioner which included, but were not limited to, the following:

5           (a)     Paragraphs 11 and 12, above, are hereby incorporated by reference and re-  
6 alleged as if fully set forth herein.

7           (b)     On or about December 15, 16 and 20, 2005, Respondent did not  
8 administer some of the respiratory medications to his patients that he documented in the  
9 medical records as administered and charged for. Instead, Respondent took the  
10 medication bags containing patients' respiratory medications and placed them in his  
11 locker.

12           (c)     On or about December 15, 16 and 20, 2005, Respondent falsified the  
13 medical records of patients assigned to him by making grossly incorrect entries regarding  
14 the patients' respiratory treatments.

15                           THIRD CAUSE FOR DISCIPLINE

16                           (Falsifying Medical Records)

17           15.     Respondent is further subjected to disciplinary action under section 3750,  
18 subdivisions (g) and (k) of the Code, in that he falsified medical records, as more particularly  
19 alleged hereinafter:

20           (a)     Paragraphs 11 and 12, above, are hereby incorporated by reference and re-  
21 alleged as if fully set forth herein.

22           (b)     On or about December 15, 16 and 20, 2005, Respondent made grossly  
23 incorrect entries in the patients' medical records regarding their respiratory treatments.

24                           FOURTH CAUSE FOR DISCIPLINE

25                           (Incompetence)

26           16.     Respondent is further subjected to disciplinary action under section 3750,  
27 subdivisions (g) and (o) of the Code, in that he was incompetent in the care and treatment of  
28 patients assigned to him, as more particularly alleged hereinafter:



1 (a) Paragraphs 11 and 12, above, are hereby incorporated by reference and re-  
2 alleged as if fully set forth herein.

3 (b) On or about December 15 and 16, 2005, Respondent administered  
4 respiratory treatments to patient P.E. that had been previously placed on hold by the  
5 patient's physician.

6 (c) On or about December 15, 16 and 20, 2005, Respondent did not  
7 administer some of the respiratory medications to his patients that he documented in the  
8 medical records as administered and charged for. Instead, Respondent took the  
9 medication bags containing respiratory medications and placed them in his locker.

10 (d) On or about December 15, 16 and 20, 2005, Respondent made grossly  
11 incorrect entries in the patients' medical records regarding their respiratory treatments.

12 FIFTH CAUSE FOR DISCIPLINE

13 (Pattern of Substandard Care)

14 17. Respondent is further subjected to disciplinary action under section 3750,  
15 subdivisions (g) and (p) of the Code, in that he engaged in a pattern of substandard care, as more  
16 particularly alleged hereinafter:

17 (a) Paragraphs 11 and 12, above, are hereby incorporated by reference and re-  
18 alleged as if fully set forth herein.

19 (b) On or about December 15 and 16, 2005, Respondent administered  
20 respiratory treatments to patient P.E. that had been previously placed on hold by the  
21 patient's physician.

22 (c) On or about December 15, 16 and 20, 2005, Respondent did not  
23 administer some of the respiratory medications to his patients that he documented in the  
24 medical records as administered and charged for. Instead, Respondent took the  
25 medication bags containing respiratory medications and placed them in his locker.

26 (d) On or about December 15, 16 and 20, 2005, Respondent made grossly  
27 incorrect entries in the patients' medical records regarding their respiratory treatments.  
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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

4 1. Revoking Respiratory Care Practitioner License No. 24702 heretofore  
5 issued by the Board to MAURO ANTONIO;

6 2. Ordering MAURO ANTONIO to pay the Respiratory Care Board the costs  
7 of the investigation of this case, and if placed on probation, the costs of probation monitoring;

8 3. Taking such other and further action as deemed necessary and proper.  
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10 DATED: February 1, 2007  
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12  
13 Original signed by Liane Zimmerman for:  
14 STEPHANIE NUNEZ  
15 Executive Officer  
16 Respiratory Care Board of California  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant  
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